



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 1007

BOSTON, MASSACHUSETTS 02108

(617) 727-8352

(800) 462-OCPF

MARY F. MCTIGUE  
DIRECTOR

December 29, 1989  
AO-89-31

Jane H. Malme, Chief  
Bureau of Local Assessment  
Division of Local Services  
Department of Revenue  
200 Portland Street  
Boston, MA 02114

Dear Ms. Malme:

This letter is in response to your request for an advisory opinion regarding any relevant requirements and prohibitions relative to your being a candidate for Selectman in the Town of Hingham, prior to and during an unpaid leave of absence from your position as a state employee.

You have stated that you are currently the Chief of the Bureau of Local Assessment in the Department of Revenue's Division of Local Services. The Division provides oversight and assistance to municipalities in matters related to municipal finance and taxation. The Bureau of Local Assessment supervises, trains and provides technical assistance to municipal assessors in valuation, classification and assessment of property for local taxation. You have recently completed a special assignment coordinating the emergency assistance aid project, which allocated \$20-million among fiscally distressed cities and towns qualified under guidelines developed by the Division of Local Services. The Town of Hingham did not apply and was not considered for this one-time grant.

You have requested and will be granted a year's leave of absence from the Department. Due to accrued vacation, your official leave of absence will begin approximately six weeks after your last working day and after the announcement of your candidacy for local office in mid-January. The municipal election is April 28, 1990. During your leave of absence you will not participate in or contribute to any employee benefits, such as group insurance and retirement.

You have inquired as to the relevant requirements and prohibitions under M.G.L. c.55 affecting your candidacy. In order to provide you with this information, we have posed a series of questions and answers we believe to be pertinent.

1. Are you permitted to continue your employment with the Division of Local Services while you seek elected office at the municipal level?

Section 13 of M.G.L. c.55 states, in part:

No person employed for compensation, other than an elected officer, by the commonwealth . . . shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office . . . The soliciting or receiving of any gift, payment, contribution, assessment, subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office a person so employed for compensation by the commonwealth . . . shall not be deemed to be a direct or indirect solicitation or receipt of such contribution by such person; provided, however, that no such gift, payment, contribution, assessment, subscription or promise of money or other thing of value may be solicited or received on behalf of such a person from any person or combination of persons if such person so employed knows or has reason to know that the person or combination of persons has an interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is the subject of his official responsibility.

No provision of M.G.L. c.55, including section 13, mandates that a public employee relinquish his or her employment with the commonwealth in order to seek elected office. You may not, however, solicit contributions directly or indirectly, in person or in writing, while so employed. If you were to take an unpaid leave of absence of at least six months before the municipal election (or at least four months before the primary election, if any), you would not be considered "employed for compensation" by this office and therefore not subject to the prohibitions of section 13 of M.G.L. c.55. In order for such unpaid leave of absence to qualify as described in the previous sentence, it could not include any vacation, compensatory or sick time to which you may be entitled.

Therefore, it is the opinion of this office that although you are taking an unpaid leave of absence from your employment with the Division of Local Services, such leave is not sufficient to remove you from the prohibitions of section 13 of M.G.L. c.55 because it is a leave of less than six months before the election in April, 1990. You may, however, establish a political committee to solicit and

receive contributions on your behalf (subject to the restrictions described in the answer to question 3 below).

We would also advise you to examine other regulations or policies which may be applicable to you, such as those that may be promulgated by the Department of Revenue.

2. May your political committee solicit and receive funds and other things of value from public employees on behalf of your candidacy?

Your political committee may solicit and receive contributions for your candidacy from public employees, subject to the prohibition in section 13 of M.G.L. c.55 against the solicitation or receipt of funds "from any person or combination of persons if such person so employed knows or has reason to know that the person or combination of persons has an interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is the subject of his official responsibility."

You should be aware of certain provisions of the law:

Section 16 of M.G.L. c.55 states: "No person in the public service shall, for that reason, be under obligation to contribute to any political fund, or to render any political service, and shall not be removed or otherwise prejudiced for refusing to do so."

Section 17 of M.G.L. c.55 states: "No officer or employee of the commonwealth or of any county, city or town shall discharge, promote, or degrade an officer or employee, or change his official rank or compensation, or promise or threaten so to do, for giving, withholding or neglecting to make a contribution of money or other valuable thing for a political purpose."

3. Are there certain classes of persons from whom your political committee may not solicit or receive contributions?


As noted above, the political committee of a public employee may not solicit or receive contributions "from any person or combination of persons if such person so employed knows or has reason to know that the person or combination of persons has an interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is the subject of his official responsibility." In the course of soliciting and receiving contributions, your political committee is subject to this limitation. It is the opinion of this office, based on the facts you have given us, that your political committee should neither solicit nor receive any

contributions from (1) employees whom you supervise as chief of the Bureau of Local Assessment and (2) any municipal official, including municipal assessors, whom the Bureau of Local Assessment supervises. From the context of your letter, we assume that the emergency assistance aid project has been completed. If it has not, your political committee would also be precluded from soliciting and receiving contributions from any person who is directly involved in such project, e.g. the municipal official coordinating the project in a particular town or city. We have addressed this particular issues based on the facts you have given us. If there are other classes of persons having an interest in any particular matter in which you participate or have participated during your employment or which is the subject of your official responsibility, such persons may also be covered by section 13.

This opinion has been rendered solely on the basis of the representations made in your letter and solely in the context of M.G.L. c.55.

I have enclosed a brochure containing general information about municipal campaign finance matters. Please do not hesitate to contact this office should you have additional questions.

Very truly yours,



Mary F. McTigue  
Director

enclosure  
MFM/wp